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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/086,992 | 02/28/2002 | Brian Reynolds | 1001.1524102 | 8402 |
| 28075 | 7590 | 02/04/2004 | EXAMINER | |
| CROMPTON, SEAGER & TUFTE, LLC 1221 NICOLLET AVENUE SUITE 800 MINNEAPOLIS, MN 55403-2420 | | | MCCROSKEY, DAVID J | |
| | | ART UNIT | PAPER NUMBER | |
| | | 3736 | | |

DATE MAILED: 02/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-------------------|-----------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/086,992 | REYNOLDS ET AL. |
| | Examiner | Art Unit |
| | David J. McCrosky | 3736 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-58 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-58 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5,6,7.
- 4) Interview Summary (PTO-413) Paper No(s). _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Claim Objections

Claim 35 is objected to because of the following informalities: "a the connector" in line 6 should read --a connector--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-13, 16, 20-28, 30, 33-42 are rejected under 35 U.S.C. 102(b) as being anticipated by Eder et al (EP 806220 A2 cited by Applicant). The reference discloses a guidewire comprising distal and proximal sections with a connector (178) disposed adjacent the ends. See Fig 5A and col. 8, ll. 2-18. Butt joints are illustrated in Figs. 3 and 6. Connector material (156) is illustrated in Fig. 3. A polymer sleeve is placed on the guidewire. See col. 2, ll. 5-10 and col. 5, ll. 19-23.

Claims 43 and 44 are rejected under 35 U.S.C. 102(e) as being anticipated by Richardson et al. A polymer sheath is disposed around at least a portion of the core and coil. The coil extends distally beyond the distal portion of the core wire. See Figs. 17, 20, 23, 26, 29 and 32.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 14, 15, 17-19, 29, 31, 32, 54 and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eder et al as applied to claims 1, 12, 13, 16, 25, 28 and 30 above, and further in view of Gambale et al. Eder et al teach a guidewire as recited for claims 1, 12, 13, 16, 25, 28 and 30. Eder et al do not teach the specifics of the coil and therefore does not disclose a flat ribbon, distally extending coil or an inner coil. However, Gambale et al teach that these features are well known in the art. See Figs. 1-5. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the coil of Gambale et al with the guidewire of Eder et al,

since Eder et al teach a guidewire with a coil and Gambale et al disclose one such guidewire-coil configuration.

Claims 45, 46, 47, 48, 51 and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richardson et al as applied to claim 43 above, and further in view of Sepetka et al. Richardson et al teach a guidewire as recited for claim 43 but does not teach a flat wire coil or a coil with a changing diameter. Sepetka et al teach a guidewire with a flat wire coil and decreasing diameter for better attachment to the distal end of the core. See col. 6, ll. 10-18 and Fig. 1. Regarding claims 47 and 51, it is well known in the art to provide a core made of a linear elastic nickel titanium alloy. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the coil of Richardson et al with the flat wire coil of Sepetka et al for better attachment to the core.

Claims 47, 49, 50 and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gambale et al in view of Sepetka et al. Gambale et al teach a core structure with an inner and outer coil attached thereto. The reference does not teach a flat wire coil. Sepetka et al teach a flat wire coil for better attachment to the distal end of the core. See col. 6, ll. 10-18 and Fig. 1. It is well known in the art to provide a core made of nickel titanium alloy. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the coil of Gambale et al with the flat wire coil of Sepetka et al for better attachment to the core.

Claim 53 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gambale et al in view of Sepetka et al as applied to claim 52 above, and further in view

of Morrison et al. Gambale et al and Sepetka et al teach a guidewire as recited for claims 47 and 52. The combination does not teach a coil with a diameter that decreases as the coil extends distally. However, Morrison et al teach a guidewire with a coil that tapers to become narrower as the coil extends distally. See col. 4, ll. 31-36. The distal taper allows greater flexibility and shapeable characteristics. See col. 5. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the coil of Gambale et al and Sepetka et al with the distal taper of Morrison et al for greater flexibility.

Claims 54-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richardson et al in view of Eder et al. Richardson et al discloses a polymer sheath that is disposed around at least a portion of the core and coil. The coil extends distally beyond the distal portion of the core wire. See Figs. 17, 20, 23, 26, 29 and 32. Richardson et al do not teach a connector. Eder et al disclose a guidewire comprising distal and proximal sections with a connector (178) disposed adjacent the ends for greater flexibility. See Fig 5A and col. 8, ll. 2-18. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the guidewire of Richardson et al with the connector of Eder et al to achieve greater flexibility.

Claim 58 is rejected under 35 U.S.C. 103(a) as being unpatentable over Richardson et al in view of Eder et al as applied to claim 54 above, and further in view of Sepetka et al. Richardson et al and Eder et al teach a guidewire as recited for claim 54. The combination does not teach a flat wire coil. Sepetka et al teach a flat wire coil for better attachment to the distal end of the core. See col. 6, ll. 10-18 and Fig. 1. It

would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the guidewire of Richardson et al and Eder et al with the flat wire coil of Sepetka et al for better attachment to the core.

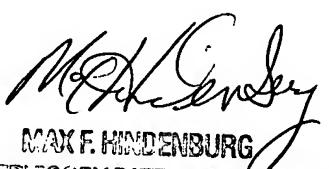
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. McCrosky whose telephone number is 703-305-1331. The examiner can normally be reached on Mon-Fri 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max F. Hindenburg can be reached on 703-308-3130. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9302.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

DJM



MAX F. HINDENBURG
SUPERVISORY EXAMINER
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